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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,607	10/24/2003	Tatsumi Kageyama	1163-0475P	7307
2292	7590	03/09/2005		EXAMINER
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				NATNITHITHADHA, NAVIN
			ART UNIT	PAPER NUMBER
				3736

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/691,607	KAGEYAMA, TATSUMI
	<b>Examiner</b> Navin Natnithithadha	<b>Art Unit</b> 3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 February 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 6-13 is/are allowed.

6)  Claim(s) 1-4 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 24 October 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02092005.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1 and 3-13 have been amended.
2. Claims 1-13 are pending.

***Election/Restrictions***

3. Applicant's election without traverse of Group I, claims 1-5, in the reply filed on February 9, 2005 is acknowledged.
4. The Applicant's has amended claims 6-13 to depend directly or indirectly to independent claim 1. The amendments obviates over the restriction requirement. The Examiner has included claims 6-13 in the examination of the claims. Therefore, the restriction requirement is WITHDRAWN.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by DeVito, US 6,254,536 B1.

In regards to claim 1, DeVito teaches an apparatus using bioelectrical signals such as EEG for the control of systems (see abstract), comprising: a headband (brain wave detecting unit) 20 having EEG electrodes 23, 24, 25; and a CPU 53 for analyzing each epoch (brain wave patterns), generating control parameters (generating brain wave pattern) based on the epochs, then comparing the control parameters with baseline control parameters for subsequent mapping to control/command codes used by a control system (see col. 10, lines 11-19). The CPU 53 is connected to a memory 56 for storing data pertaining to control parameters and control codes (see fig. 8).

As to claim 2, DeVito teaches using the apparatus to generate control/command signals to a control system, such as digital video, video games, movies, interactive environments, virtual environments, alarm systems, or other devices or systems, to control its operation. The apparatus to be controlled is only the "intended use" of the claimed invention of claim 1. DeVito's apparatus is capable of controlling the operations of a vehicle.

As to claims 3 and 4, DeVito teaches control/command codes mapped to brain wave control parameters, wherein the control/command codes are used to control a device (see col. 12, lines 11-26).

#### ***Allowable Subject Matter***

6. Claims 5-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 5, the prior art of record does not teach a apparatus according to claim 1, including comparing the brain wave pattern generated with the plurality of brain wave patterns stored in a storing area of the first storing unit, the storing area being specified by input identification data that identifies a corresponding user.

As to claims 6-13, the prior art of record does not teach a apparatus according to claim 1, including a security determination unit for sending out an electric wave (alarm) indicating a notification that a moving object (vehicle) has been stolen when the moving object information detecting unit detects a change of the status of the moving object while the brain wave detecting unit (EEG) unit does not detect any brain wave.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navin Natnithithadha whose telephone number is (571) 272-4732. The examiner can normally be reached on Monday-Friday, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Navin Natnithithadha  
Patent Examiner  
GAU 3736  
March 3, 2005

  
ROBERT L. NASSER  
PRIMARY EXAMINER